

BEFORE THE STATE BOARD OF HEARING AID DEALERS AND FITTERS

STATE OF IDAHO

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OCCUPATIONAL LICENSES

In the Matter of the License of:

RANDELL E. BROWN,
License No. H-8,

Respondent.

Case No. HAD-P5B-04-00-004

FINAL ORDER

ORIGINAL

THIS MATTER came on for hearing on April 5, 2001, before William P. Combo, the designated Hearing Officer. The State appeared in person and by its attorney of record, Kirsten L. Wallace, Idaho Deputy Attorney General. Respondent, Randell E. Brown, failed to appear at the hearing. The State presented witnesses, testimony, and documentary evidence. On May 11, 2001, the Hearing Officer submitted his Findings of Fact, Conclusions of Law, and Recommended Order. At the direction of the Board, the Hearing Officer entered Amended Findings of Fact, Conclusions of Law, and Recommended Order on February 22, 2002, to establish the procedure for review of the Recommended Order.

This matter then came before the Idaho State Board of Hearing Aid Dealers and Fitters to hear oral argument from the parties on August 26, 2002. The Respondent and the State's attorney presented argument to the Board. The Board, having conducted an independent review of the record, having considered all evidence presented before the Hearing Officer, the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommended Order, the arguments of the parties, and all other matters of record, and good cause appearing therefor, the Board unanimously adopted the following Order.

FINAL ORDER - 1.

IT IS HEREBY ORDERED as follows:

1. That the Hearing Officer's Findings of Fact and Conclusions of Law are hereby adopted and incorporated herein by reference, except as set forth herein.

2. Conclusion of Law No. 3 entered by the Hearing Officer is amended to provide that Respondent violated Idaho Code § 54-2912(b)(13) by failing to have the contract fully executed on or about the time the hearing aids were sold, as required by Idaho Code § 54-2903.

3. Conclusion of Law No. 4 entered by the Hearing Officer is amended to provide that Respondent violated Idaho Code § 54-2912(b)(11) by failing to provide a refund pursuant to the terms of the written contract entered into by the consumer and the Respondent pursuant to the provisions of Idaho Code § 54-2903.

4. That the Respondent's conduct has violated Idaho Code § 54-2912(b) as set forth in the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommended Order and this Final Order. That pursuant to Idaho Code § 54-2912, 54-2914, and IDAPA 24.06.01.551, the Board imposes the following disciplinary sanctions upon Respondent, Randell E. Brown:

- a. Respondent shall be placed upon probation for period of one (1) year.
- b. Respondent shall pay the costs and attorney's fees incurred in the prosecution of this matter for a total amount of \$5,015.67.
- c. That Respondent is recommended, although the Board is unable to require, that he reimburse the patient for the costs of the hearing aid at issue in this action.
- d. That Respondent pay the costs and fees ordered in this matter to the Board within thirty (30) days from service of this order.

5. This is the Final Order of the Board.

FINAL ORDER - 2.

a. Any party may file a Petition for Reconsideration of this Final Order within fourteen (14) days of the service date of this Final Order. The Board will dispose of the Petition for Reconsideration within twenty-one (21) days of its receipt, or the Petition will be considered denied by the operation of law. (*See*, Idaho Code § 67-5247(4).)

b. Pursuant to Idaho Code §§ 67-5270 and 57-5272, any party aggrieved by this Final Order, or orders previously issued in this case, may appeal this Final Order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (i) a hearing was held; (ii) the final agency action was taken; or (iii) the party seeking review of this Final Order resides.

c. An appeal must be taken within twenty-eight (28) days: (i) of the service date of this Final Order; (ii) of any order denying petition for reconsideration; or (iii) of the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. (*See*, Idaho Code § 67-5273.) The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

6. The Bureau Chief of the Bureau of Occupational Licenses shall cause a true and correct copy of this Final Order to be served upon the Respondent and the State's attorney by mailing a copy to them at their addresses as provided.

DATED this 24th day of September, 2002.

STATE BOARD OF HEARING AID DEALERS
AND FITTERS

By Charles R. Gasser
Dr. Charles Gasser, Chairman

FINAL ORDER - 3.

CERTIFICATE OF SERVICE

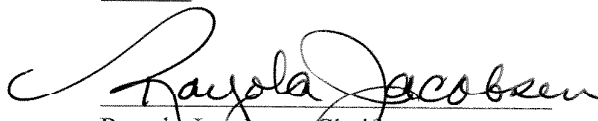
I HEREBY CERTIFY that on this 30th day of September, 2002, I caused to be served a true and correct copy of the foregoing by the following method to:

Randall E. Brown
380 S. Freeman
P.O. Box 3003
Idaho Falls, ID 83403-3003

☒ U.S. Mail, Postage Prepaid
☒ Certified Mail
☐ Hand Delivered
☐ Statehouse Mail
☐ Facsimile

David W. Lloyd
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

☐ U.S. Mail, Postage Prepaid
☐ Certified Mail
☐ Hand Delivered
☒ Statehouse Mail
☐ Facsimile


Rayola Jacobsen, Chief
Bureau of Occupational Licenses